

FEDERAL COMMUNICATIONS COMMISSION DOCKET FILE COPY ORIGINAL
Washington, D. C. 20554
JAN 14 1999

OFFICE OF
MANAGING DIRECTOR

86-285

Russell H. Fox, Esquire
Gardner, Carton & Douglas
1301 K St., N.W.
Suite 900, East Tower
Washington, D.C. 20005

Re: Request for Waiver of Regulatory Fees
Geotek Communications, Inc.

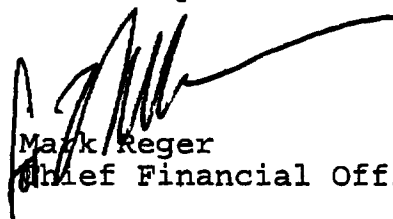
Dear Mr. Fox:

This is in response to your request for a waiver of the Fiscal Year (FY) 1998 regulatory fees for Geotek Communications, Inc. (Geotek). You state that Geotek has filed a voluntary petition for bankruptcy with the United States Bankruptcy Court for the District of Delaware. On July 29, 1998, Geotek notified the Commission that it had engaged in a transfer of control under the protection of the bankruptcy court.

In Implementation of Section 9 of the Communications Act, FCC 95-257, ¶ 14, released June 22, 1995, the Commission found that a bankruptcy or receivership is sufficient to establish financial hardship, and that imposition of the regulatory fee could act as an impediment to the efforts of a trustee, debtor in possession, or receiver to assign a license to a new licensee. Thus, the Commission held that it would waive the regulatory fees for licensees who are bankrupt, undergoing Chapter 11 reorganizations or are in receivership.

Based on your representations that Geotek has filed a voluntary petition for bankruptcy, your petition is granted. Accordingly, the FY 1998 regulatory fee for Geotek Communications, Inc. is waived. If you have any questions concerning the waiver please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

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Federal Communications Commission
Office of Secretary

CHICAGO, ILLINOIS

COPY

September 2, 1998

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D.C. 20554

Re: Geotek Communications, Inc.
Request for Deferral & Waiver of Regulatory Fees

Directed to: Office of Managing Director
& Office of General Counsel

Dear Ms. Salas:

Geotek Communications, Inc. ("Geotek"), by its counsel, on behalf of its wholly-owned domestic subsidiaries, and pursuant to section 1.1166 of the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.1166, hereby seeks deferral and waiver of its 1998 regulatory fee payment.

As a commercial mobile radio service ("CMRS") provider, Geotek is required to pay a regulatory fee equivalent to \$0.29 per mobile unit that was in service as of December 31, 1997. As set forth more fully below, the FCC should defer and waive the payment due by Geotek, which must otherwise be submitted by Geotek prior to September 18, 1998.

Geotek is currently reorganizing its affairs and cannot be expected to comply with the Commission's 1998 regulatory fee requirement. In particular, Geotek recently filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. At this time, Geotek continues to operate its business and manage its affairs as "debtor-in-possession." On July 29, 1998, Geotek notified the FCC that it had engaged in a *pro forma* transfer of control associated with its bankruptcy filing. Thus, the fact that Geotek is under Chapter 11 bankruptcy protection is a matter of public record with the FCC.

September 2, 1998

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The Commission has stated that it will consider requests for *waiver* of regulatory fees, in "extraordinary and compelling" circumstances only, upon a showing that such action overrides the public interest in reimbursing the Commission for its regulatory costs. In addition, in cases where payment of the regulatory fee at the time the waiver request is submitted would result in the reduction of service to a community or other financial hardship to the licensee the Commission has stated that it will grant a request to *defer* payment of the fee with the waiver request.¹

Geotek believes its circumstances justify deferral and waiver of regulatory fees because the Commission has expressly stated that bankrupt entities qualify this treatment:

We have also received petitions for waivers from licensees of stations which are legally bankrupt, undergoing Chapter 11 reorganizations, or are in receivership. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. Moreover, where a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.

Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees, 10 FCC Rcd 12759, ¶ 14 (1995) (emphasis added). Thus, the above-cited FCC discussion of regulatory fee payments indicates that Chapter 11 status establishes "good cause" for purposes of waiving of the fee due, and "financial hardship" for purposes of deferring payment of that fee while the request for waiver is under consideration by the agency.

Accordingly, based on the foregoing, Geotek requests that the Commission defer and waive its 1998 CMRS regulatory fee requirement.

* * *

¹ 47 C.F.R. § 1.1166(c) (1997).

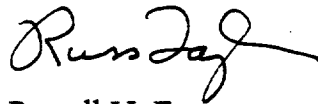
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If you have any questions concerning this matter, please call either of us.

Respectfully submitted,

Geotek Communications, Inc.

A handwritten signature in black ink, appearing to read "Russ Taylor", with a stylized flourish at the end.

Russell H. Fox
Russ Taylor
Its FCC Counsel